

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

VICKY PIONTEK,

Plaintiff,

v.

CONVERGENT OUTSOURCING, INC. and
DOES 1 to 10, inclusive,

Defendants.

Case No.

**COMPLAINT FOR VIOLATIONS OF
THE FAIR DEBT COLLECTION
PRACTICES ACT ("FDCPA"), THE
WASHINGTON COLLECTION
AGENCY ACT ("WCAA") AND THE
WASHINGTON CONSUMER
PROTECTION ACT("WCPA")**

JURY TRIAL DEMANDED

COMPLAINT AND DEMAND FOR JURY TRIAL

1. This is an action brought by a consumer for violation of alleged violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA").

2. Plaintiff is Vicky Piontek, an adult individual whose principal residence is 21 South 12th Street, Suite 1W, Philadelphia, Pennsylvania 19107.

3. Defendants are the following:

a. CONVERGENT OUTSOURCING, INC., 800 SW 39th Street, Renton, King
County, Washington 98057.

COMPLAINT - 1

(Case No. _____)

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1 b. John Does 1-10, individuals or business entities whose identities are not known
2 to Plaintiff at this time, but which will become known upon proper discovery. It
3 is believed and averred that such Does played a substantial role in the
4 commission of the acts described in this complaint.
5

6
7 **JURISDICTION AND VENUE**

8 4. The previous paragraphs of this complaint are incorporated by reference and made a part
9 hereof.

10 5. Jurisdiction of this court arises under 15 U.S.C. §1692k(d) and 28 U.S.C. 1367.

11 Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.

12
13 6. Venue is proper in this jurisdiction because Defendants do business in this jurisdiction
14 and avail themselves of the benefits of the market in this jurisdiction.

15
16 7. Venue is proper in this jurisdiction because a substantial portion of the transactions,
17 occurrences or omissions took place near this jurisdiction.
18

19 **COUNT ONE: VIOLATION OF 15 USC 1692 ET. SEQ (FDCPA) FAILURE TO MAKE**
20 **REQUIRED DISCLOSURES IN A WRITTEN COMMUNICATION**

21 8. The previous paragraphs of this complaint are incorporated by reference and made a part
22 of this action.

23
24 9. Plaintiff is a consumer debtor as defined by the Fair Debt Collections Practices Act
25 (FDCPA), 15 U.S.C. 1692 et. seq.

26 10. At all relevant times in this Complaint, Defendants were acting as debt collectors as
27 defined by the FDCPA, 15 U.S.C. 1692 et. seq.

28
29 11. At all times mentioned herein, Defendants were attempting to collect on an alleged
30 consumer debt against Plaintiff.

1 12. Within one (1) year of the date preceding the date of this Complaint, Plaintiff received a
2 communication from the Defendant in the form of a letter that was dated March 11, 2012 and
3 was post marked March 29, 2012.

4 13. In no place in this communication did the Defendant identify who the communication
5 was from or that it was from a debt collector.

6 14. The only means for identifying who the communication was from was the return address
7 on the outside of the envelope, which belongs to Defendant.

8 15. The above referenced mail correspondence was a communication as defined by 15 USC
9 1692(a)(2).

10 16. Every communication by a debt collector must give meaningful disclosure of the debt
11 collector's identity, as well as state that the purpose of the communication is to collect a debt.
12 See Foti v. NCO Financial Systems, Inc., 424 F. Supp. 2d 643 (S.D.N.Y. 2006); INMAN V.
13 NCO FINANCIAL SYSTEMS, INC, United States District Court for the Eastern District of
14 Pennsylvania, Docket Number NO. 08-5866; Edwards v. NIAGARA CREDIT SOLUTIONS,
15 INC., United States Court of Appeals for the Eleventh Circuit, Docket Number 08-17006. See
16 GRYZBOWSKI v. I.C. SYSTEM, INC 3:CV-08-1884, UNITED STATES DISTRICT COURT
17 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA (2010).

18 17. The above referenced mail correspondence violated the FDCPA for the following
19 reasons.

- 20 a. It did not have Defendant's name anywhere on it, thereby violating §1692e of the
21 FDCPA. See attached exhibit.
- 22 b. It did not indicate anywhere on the correspondence that the correspondence was
23 from a debt collector, §1692e of the FDCPA. See attached exhibit.
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c. It did not indicate anywhere on the correspondence that the correspondence was an attempt to collect a debt, §1692e of the FDCPA. See attached exhibit.

d. It was sent without meaningful disclosure of Defendant debt collector's identity. See attached exhibit.

18. Defendant's acts as described above were done intentionally with the purpose of coercing Plaintiff to pay the alleged debt.

19. As a result of the foregoing violations of the FDCPA, Defendant is liable to the Plaintiff, Vicki Piontek, for declaratory judgment that Defendant's conduct violated the FDCPA, actual damages, statutory damages, and costs and attorney fees.

**COUNT TWO: VIOLATION OF RCW 19.16. (WCAA) FAILURE TO MAKE
REQUIRED DISCLOSURES IN A WRITTEN COMMUNICATION AND
WASHINGTON STATE CONSUMER PROTECTION ACT**

20. The previous paragraphs of this complaint are incorporated by reference and made a part of this action.

21. Plaintiff is a debtor as defined by the Washington Collection Agency Act (WCAA), RCW 19.16 et. seq.

22. At all times relevant in this Complaint, Defendants were acting as a collection agency as defined by the WCAA, RCW 19.16 et. seq.

23. At all times mentioned herein, Defendants were attempting to collect on an alleged consumer debt against Plaintiff.

24. The above referenced mail correspondence violates RCW 19.16 for the following reasons.

a. It did not have Defendant's name anywhere on it, thereby violating *RCW 19.16.250(8)(a)* of the RCW, which states "No licensee or employee of a licensee

shall . . . give or send to any debtor or cause to be given or sent to any debtor, any notice, letter, or form, other than through proper legal action, process or proceedings, which represents or implies that a claim exists unless it shall indicate in clear and legible type . . . the name of the licensee and the city, street, and number at which he or she is licensed to do business. . . ." See attached exhibit.

- b. Defendant's mail correspondence violates RCW 19.16.440, which states "the commission by a licensee or an employee of a licensee of an act or practice prohibited by RCW 19.16.250 are declared to be unfair acts or practices or unfair methods of competition in the conduct of trade or commerce for the purpose of the application of the Consumer Protection Act found in RCW 19.86.

DAMAGES

25. The preceding paragraphs are incorporated by reference and made a part hereof.
26. Plaintiff's actual damages are \$1.00 more or less, including but not limited to postage, phone calls, fax, gas, mileage, etc.
27. \$1,000 statutory damages under 15 USC 1681 et. seq.
28. Treble damages pursuant to RCW 19.86 et. seq.
29. Plaintiff suffered frustration, distress and anger as a result of Plaintiff's rights being violated by Defendant.
30. The value of Plaintiff's emotional distress shall be proven at trial.

DEMAND FOR JURY TRIAL

Please take notice that Plaintiff, Vicki Piontek, demands trial by jury in this action.

1 DATED: September 17, 2012

2 **MEYLER LEGAL, PLLC**

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10 *Counsel for Plaintiff*

11 *Vicki Piontek*

EXHIBIT

COMPLAINT - 7
(Case No. _____)

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Customer Account Number Bill Period Bill Date
 Vicki Piontek 893886012 Feb 08-Mar 07 Mar 11, 2012

1 of 4

Hello!

Unfortunately, your account is past due. Please pay the total below immediately.

Sprint is making changes to its policies. Please see the "Sprint News and Notices" box on page 2, the back of this page, for details.

Previous Balance..... \$335.76

Total Due \$335.76

You can contact Sprint Customer Service

On the Web:
www.sprint.com

By Phone:
 1-888-211-4727

Use your Mobile free of charge:
 Dial *2 to contact Customer Service
 Dial *3 to make a one-time payment

88746076
 XSP100
 TEX

F NP



#BWNKCTX
 #0000893886012 B 4#
 MANIFESTLINE-----
 VICKI PIONTEK
 24 W GOVERNOR RD
 HERSHEY, PA 17033-1722

Detach and return this remittance form with your payment.
 Past due amount of \$335.76 due immediately. New charges due by Mar 31.
 Account Number 893886012

Amount due **\$335.76**

Amount Enclosed \$



PO BOX 105243
 ATLANTA, GA 30348-5243

893886012 000000000000 000000335760 000000335760



Customer Account Number Bill Period Bill Date
Vicki Piontek 6012 Feb 08-Mar 07 Mar 11, 2012

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SPRINT NEWS AND NOTICES

This section contains important updates about your Sprint Services, including Service or Rate Changes, Promotions and Offers.

Rates: International, U.S. Territories & possessions

Rates, including associated roaming rates, for International, U.S. Territories and possessions, are subject to change from time to time without notice. Visit sprint.com/international for the current voice, text and data rate information.

Software Updates Available

Keep your phone's software current by checking for updates regularly. Log on to sprint.com any time to check your alerts or go to sprint.com/learn and follow the instructions for your phone. That's getting it done right now.

Hearing Aid Compatibility

Sprint offers a variety of handsets that have been rated for compatibility with several types of hearing aids. Please visit sprint.com/accessibility for more information.

IMPORTANT INFORMATION RELATING TO YOUR SPRINT BILL

Billing Information. This bill is due on the date shown. A late payment charge applies for unpaid balances and is charged at the highest rate permissible by law. Sprint Nextel will impose a \$25 charge for each returned check. Service is subject to disconnection if payment is not received by the due date shown. Contact us first with billing disputes, which must be made within 60 days of the invoice date. Charges that are not properly disputed will be deemed accepted and due by the date shown. Roaming charges accrued during the billing period may appear on subsequent bills because of third-party processing delays.

Contacting Sprint. Address written correspondence to: Sprint Customer Service, PO Box 8077, London, KY 40742 (include your name and account number). Please do not include any correspondence in your bill.

Call detail. Full call detail information is available online.

E911. Enhanced 911 (E911) services, which provide public safety officials your location during a 911 call are not available everywhere and at all times. E911 availability is dependent on many factors, including the ability of particular local public safety agencies to receive and process location information, the capabilities of your equipment and other factors affecting the delivery of services.

Your Privacy. Protect against unauthorized account access by using a Personal Identification Number (PIN) to identify yourself when calling Care or visiting a retail store. Visit sprint.com/pin to establish or change your PIN. Don't use commonly known info like birthdays or SSNs. To access your account online, create a unique UserID/password. To review Sprint's Privacy Policy, go to sprint.com.

ETF per line: Up to \$350 for Advanced Devices; up to \$200 for other devices. Prorated ETF calculated by months remaining in term times \$20 (max. \$350 & min. \$100) for Advanced Devices or months remaining times \$10 for other devices (max. \$200 & min. \$50). No ETF in accordance with Sprint's Return Policy. See sprint.com/etf.

Terms & Conditions/Service Updates. The terms & conditions of Sprint service sometimes change. The current version is available online. Updates to your service will be provided in the Sprint News and Notices section.

NAME _____

MAILING ADDRESS _____

CITY _____ STATE _____ ZIP _____

EMAIL _____

☐ E-Bill: Receive your bill by email (you will no longer receive paper bills).

☐ Receive Sprint updates and special offers via email.

Protect Your Voicemail

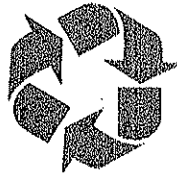
Use a passcode to protect against unauthorized access.

If you don't use a passcode, anyone who has your handset can access your messages; therefore we strongly recommend you set one up. It's easy - just access your voicemail and follow the prompts.

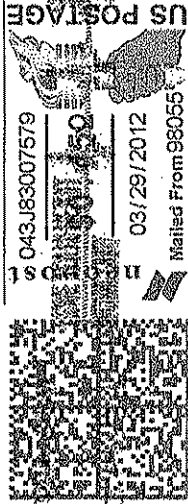
Sign up to have your Sprint bill automatically paid every month using your checking account by visiting www.sprint.com.

P.O. BOX 9004
RENTON, WA 98057-9004

ADDRESS SERVICE REQUESTED



Recycle



VICKI Piontek
21 S 12th St
Ste 100
Philadelphia PA 19107

1910783607

